

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2018 NOV 16 PM 3:17

CLERK 
SO. DIST. OF GA.

RICARDO MANDRELL MOBLEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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CV 118-155

(underlying CR 115-063)

O R D E R

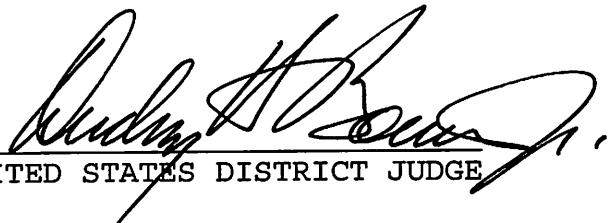
On September 14, 2018, Petitioner filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. Because the motion sought credit for time served, which is cognizable under 28 U.S.C. § 2241 rather than § 2255, his petition was dismissed without prejudice. (See Order of October 11, 2018, Doc. No. 2.)

On November 9, 2018, the Eleventh Circuit Court of Appeals received from Petitioner another § 2255 motion, which is dated November 5, 2018; the Eleventh Circuit in turn forwarded the filing to the Clerk of this Court, and it has been docketed in this case. The only complaint that Petitioner seems to make in this filing is that the Court erroneously stated that he was sentenced to "three years of imprisonment for armed robbery" in December 2015 when, in fact, he was sentenced to six years (72 months) for using, carrying, and brandishing a firearm during a crime of violence,

that is, bank robbery. The Court stands corrected on this point. However, this does not change the result of the case, which is that Petitioner cannot obtain the relief he seeks through a § 2255 motion. Rather, he must file a § 2241 motion, and he must do so in the district of his confinement - the Eastern District of California.

Upon the foregoing, the Clerk is directed to **TERMINATE** the motion occasioned by filing the new § 2255 motion (doc. no. 4). This case stands **DISMISSED WITHOUT PREJUDICE** with the proviso that the record reflect that Petitioner was sentenced to 72 months for using, carrying, and brandishing a firearm during a crime of violence, that is, bank robbery, on December 1, 2015.

ORDER ENTERED at Augusta, Georgia, this 16th day of November, 2018.


UNITED STATES DISTRICT JUDGE